

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

ROGER LEWIS,

Plaintiff,

VS.

ENVIRONMENTAL TILLAGE SYSTEMS, INC.,

Defendant.

8:12CV98

ORDER

This matter is before the court *sua sponte*, and pursuant to [NECivR 41.2](#), which states in pertinent part: “At any time, a case not being prosecuted with reasonable diligence may be dismissed for lack of prosecution.” In this case the complaint was filed on March 9, 2012. **See** [Filing No. 1](#). On July 16, 2012, the court entered an order requiring the plaintiff to file proof of service or show cause why the case should not be dismissed. **See** [Filing No. 3](#). After receiving an extension of time, the plaintiff filed notice of executing a summons on the defendant by August 3, 2012. **See** [Filing No. 9](#). The defendant did not file a timely answer. On September 4, 2012, for a second time, the court entered an order requiring the plaintiff to show cause why the case should not be dismissed for lack of prosecution. **See** [Filing No. 10](#). On September 13, 2012, the parties filed a stipulation, which was adopted by the court, seeking an extension of time, until October 15, 2012, for the defendant to file an answer. **See** [Filing No. 11](#). On October 18, 2012, the parties again stipulated to an extension of the answer deadline. **See** [Filing No. 14](#). The court entered an order allowing the defendant an extension of time until November 9, 2012, to file an answer. **See** Filing No. 15 - Text Order. Additionally, the court gave the parties an extension of time until November 27, 2012, to confer and file a joint planning report as required by Fed. R. Civ. P. 26(f). *Id.*

As of close of business on November 30, 2012, the defendant has not filed an answer and no other progress has taken place in this matter. It remains the plaintiff's duty to go forward in prosecuting the case by, for example, filing a motion for clerk's entry of

default pursuant to Fed. R. Civ. P. 55 and NECivR 55.1(a), as appropriate. Upon consideration,

IT IS ORDERED:

The plaintiff has until the close of business **on December 10, 2012**, to file a motion for clerk's entry of default or show cause why this case should not be dismissed for failure to prosecute. Continued failure to comply with this court's orders and the rules of the court may result in sanctions against counsel and/or the parties to the extent allowed by Fed. R. Civ. P. 37.

Dated this 3rd day of December, 2012.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge